



**United States Government
NATIONAL LABOR RELATIONS BOARD
Region Four
615 Chestnut Street – Seventh Floor
Philadelphia, PA 19106–4404**

Telephone: (215) 597-7601
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December 10, 2009

Jack Costa, Staff Representative
United Steel, Paper and Forestry, Rubber,
Manufacturing, Energy, Allied Industrial and
Service Workers International Union Local 485A
2460 Boulevard of the Generals
Norristown, PA 19403

Re: Silberline Mfg. Co., Inc.
Case 4-CA-37145

Gentlemen:

In accordance with the National Labor Relations Board's decisions in *Collyer Insulated Wire*, 192 NLRB 837 (1971), and *United Technologies Corp.*, 268 NLRB 557 (1984), I am declining to issue Complaint on the instant charge based on my determination that further proceedings should be administratively deferred for arbitration.

My reasons for deferring the charge are as follows: (1) the dispute concerning the allegations that the Employer unilaterally altered its method of filling job vacancies by hiring temporary employees to fill vacant positions instead of allowing current employees to bid on the positions and then terminating the temporary employees before they become Union members, appears to be encompassed by the grievance procedure of the collective bargaining agreement between Silberline Mfg. Co., Inc. and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union Local 485A, AFL-CIO; (2) the grievance procedure provides for final and binding arbitration of disputes under the agreement; (3) a timely grievance concerning the hiring of temporary employees has been filed and there is no impediment to processing the grievance to arbitration; (4) although no grievance has been filed concerning the Employer's alleged discharge of temporary employees in order to prevent them from becoming Union members, on December 9, 2009, the Employer informed the Regional Office that it is now, and for a reasonable period of time will be, willing to process a grievance concerning this portion of the dispute through the grievance procedure, notwithstanding any contractual time limitations on the processing of grievances to arbitration; and (5) the resulting arbitration award may meet the standards for deferral to such awards established by the Board in *Spielberg Manufacturing Co.*, 112 NLRB 1080 (1955), and *Olin Corp.*, 268 NLRB 573 (1984).

Further Processing of the Charge: As explained below, while the charge is deferred, the Region will monitor the processing of the grievance and, under certain circumstances, will resume processing the charge.

Charging Party's Obligation: Under the Board's *Collyer* deferral policy, the Charging Party has an affirmative obligation to file a grievance, if a grievance has not already been filed. If the Charging Party fails either to promptly file or submit the grievance to the grievance/arbitration process, or declines to have the grievance arbitrated if it is not resolved, I will dismiss the charge.

Charged Party's Conduct: If the Charged Party prevents or impedes resolution of the grievance, raises a defense that the grievance is untimely filed or refuses to arbitrate the grievance, I will revoke deferral and resume processing of the charge.

Inquiries and Requests for Further Processing: Approximately every 90 days, the Regional Office will ask the parties about the status of this dispute to determine if the dispute has been resolved and whether continued deferral is appropriate. Failure to respond to the Region's inquiries may result in dismissal of the charge. I will accept and consider at any time requests and supporting evidence submitted by any party to this matter for dismissal of the charge, for continued deferral of the charge or for issuance of a complaint.

Notice to Arbitrator Form: If the grievance is submitted to an arbitrator, please sign and submit to the arbitrator the enclosed "Notice to Arbitrator" form to ensure that the Region receives a copy of an arbitration award when the award is sent to the parties.

Review of Arbitrator's Award: If the grievance is arbitrated, the Charging Party may request that this office review the arbitrator's award. The request must be in writing and addressed to me. The request should discuss whether the arbitration process was fair and regular, whether the unfair labor practice allegations in the charge were considered by the arbitrator, and whether the award is clearly repugnant to the Act. Further guidance on the nature of this review is provided in *Spielberg Mfg. Co.*, 112 NLRB 1080 (1955), and *Olin Corp.*, 268 NLRB 573 (1984).

Charging Party's Right to Appeal: The National Labor Relations Board Rules and Regulations permit the Charging Party to obtain a review of this action by filing an appeal with the GENERAL COUNSEL of the National Labor Relations Board. Use of the Appeal Form (Form NLRB-4767) will satisfy this requirement. However, the Charging Party is encouraged to submit a complete statement setting forth the facts and reasons why the Charging Party believes that the decision to defer the charge was incorrect.

Means of Filing: An appeal may be filed electronically, by mail, or by delivery service. Filing an appeal electronically is preferred but not required. The appeal **MAY NOT** be filed by fax. To file an appeal electronically, go to the Agency's website at www.nlr.gov, click on **E-GOV**, select **E-Filing**, and follow the detailed instructions. To file an appeal by mail or delivery service, address the appeal to the General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1099 14th Street, N.W., Washington D.C. 20570-0001. Unless filed electronically, a copy of the appeal should also be sent to me.

Appeal Due Date and Time: The appeal is due on **Thursday, December 24, 2009**. If you file the appeal electronically, it will be considered timely filed if the transmission of the entire document through the Agency's website is accomplished **no later than 11:59 p.m. Eastern Time** on the due date. If you mail the appeal or send it by a delivery service, it must be received by the General Counsel in Washington, D.C. by the close of business at **5:00 p.m. Eastern Time** or be postmarked or given to the delivery service no later than **Wednesday, December 23, 2009**.

Extension of Time to File Appeal: Upon good cause shown, the General Counsel may grant an extension of time to file the appeal. A request for an extension of time may be filed electronically, by fax, by mail, or by delivery service. To file electronically, go to **www.nlrb.gov**, click on **E-Gov**, select **E-Filing**, and follow the detailed instructions. The fax number is (202) 273-4283. A request for an extension of time to file an appeal **must be received on or before the original appeal due date**. A request for an extension of time that is mailed or given to the delivery service and is postmarked or delivered to the service before the appeal due date but received after the appeal due date will be rejected as untimely. Unless filed electronically, a copy of any request for extension of time should be sent to me.

Confidentiality/Privilege: Please be advised that we cannot accept any limitations on the use of any appeal statement or evidence in support thereof provided to the Agency. Thus, any claim of confidentiality or privilege cannot be honored, except as provided by the FOIA, 5 U.S.C. 552, and any appeal statement may be subject to discretionary disclosure to a party upon request during the processing of the appeal. In the event the appeal is sustained, any statement or material submitted may be subject to introduction as evidence at any hearing that may be held before an administrative law judge. Because we are required by the Federal Records Act to keep copies of documents used in our case handling for some period of years after a case closes, we may be required by the FOIA to disclose such records upon request, absent some applicable exemption such as those that protect confidential source, commercial/financial information or personal privacy interests (e.g., FOIA Exemptions 4, 6, 7(C) and 7(d), 5 U.S.C. § 552(b)(4), (6), (7)(C), and (7)(D)). Accordingly, we will not honor any requests to place limitations on our use of appeal statements or supporting evidence beyond those prescribed by the foregoing laws, regulations, and policies.

Notice to Other Parties of the Appeal: The Charging Party should notify the other party(ies) to the case that an appeal has been filed. Therefore, at the time the appeal is sent to the General Counsel, please complete the enclosed Appeal Form (NLRB-4767) and send one copy of the form to all parties whose names and addresses are set forth in this letter.

Very truly yours,

DOROTHY L. MOORE-DUNCAN
Regional Director

Enclosures:

Appeal forms
Notice to Arbitrator form

cc:

Ronald Meisburg, General Counsel, NLRB, Washington, DC 20570

Elliot Azoff, Esquire, Baker & Hostetler LLP, 3200 National City Center, 1900 East 9th Street,
Cleveland, OH 44114

(b) (6), (b) (7)(C), Silberline Mfg. Co., Inc., 130 Lincoln Dr.,
P.O. Box B, Tamaqua, PA 18252

DLMD/kmt